

United States district court  
of the middle district of Pennsylvania  
Harrisburg.

James H. Holloway  
MOVANT

United States of America

FILED  
HARRISBURG, PA  
2007

HARRISB  
FEB 01 2007  
MARY E. D'ANDREA, CLERK  
Deputy Clerk  
Per                                          

CLERK \* \* \* \* \*

Letter-motion for reconsideration  
of this court's January 24, 2007  
order denying Relief under 18 U.S.C.  
3582(c) (2)

To: The Honorable Sylvia H. Rambo, U.S. District  
Court Judge:

MOVANT MR. James H. Holloway a pro-se  
litigant respectfully moves this court to  
reconsider it's JANUARY 24, 2007 order for  
the following reasons AND Assigning error  
there to:

Assigning of errors relating to  
January 24, 2007

1). Under *Stinson v. United States*, 508 U.S. 36 (1993), the use of the Guide line authority to impose a sentence was forbidden if it violated the

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continue from page(1) section(1)

= constitution of the LAWS of the United States. three significant decisions from the Supreme court has come down Holding that the sixth Amendment WAS violated in Application of the federal sentencing Guidelines (1) Glover v. United States, 531 US 198 (2001) Counsel's failure to object to a misapplication of the guidelines; (2) United States v. Booker, 543 US 220, 243-44 (2005) (facts triggering a sentence range elevation under the then - mandatory federal sentencing Guidelines; and (3) CUNNINGHAM v. CALIFORNIA, CASE 05-6551 Decided January 22, 2007, U.S. Supreme court) by placing sentence elevating factfinding within the judge's province, violated a defendant's Right to Trial by Jury. Safeguarded by the sixth and fourteenth Amendments).

movant request that this court MAKE such threshold inquiry in Relationship to the Amendments movant has sought Relief from AS Stinson, supra Requires.

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2). MOVANT ASSIGNS error to this court courts expansion of the time period to MAKE objections and the forums cited. That is in light of US. V. BENANT; 137 Fed. Appx. 479, 481 n.1 (3rd cir 2005) citing United States V. Diaz, 245 F.3d 294, 301 (3rd cir 2001) (constraining Amendments 591 retroactively Applicability to a case pending on direct Appeal.).

3). finally MOVANT ASSIGNS error to this court's recharacterization of 18 U.S.C ss 3582 (c)(2)'s predicates, i.e., Guideline Amendments to be predicates for Grounds under 28 U.S.C ss 2255. section 3582(c)(2) is a remedial provision, "a continuation of the criminal proceedings against a defendant," see BENANT; supra at 480. which Congress has established for gaining Access to the district court relating to reduction and on modification of a term of imprisonment. section 2255, and 2253(c) have different purposes and Relief.

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wherefore, this court should GRANT this motion for reconsideration to the plain error of law Applied to Guideline Amendments.

MOVANT Request copy of this Letter/motion as notice of receipt with date thank you...

MOVANT  
Respectfully submitted

10208-007 James H. Alloway  
U.S.P Allen wood

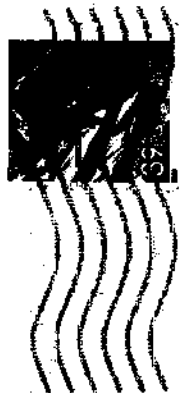
James H. Holloway 10208-067  
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JAN 29 2007

Legal mail  
MAILED FROM  
U.S. PENITENTIARY

HARRISBURG PA 171

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the Honorable Sylvia H. Rambo Judge  
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